

# MECKLENBURG COUNTY PUBLIC SCHOOLS

Policy and Procedures for  
Complaints for  
Sexual Discrimination and Harassment and  
Disability Discrimination and Harassment

# DISCLOSURE STATEMENT

- ◉ The Mecklenburg County School Board does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities or employment and provides equal access to the Boy Scouts and other designated youth groups. The following people have been designated to handle questions regarding the nondiscrimination policies: Supervisor of Personnel will be the Title IX Coordinator, who will handle complaints for sexual discrimination and the Director of Exceptional Programs will be designated as the Section 504 Coordinator, who will handle complaints concerning disability discrimination. Please contact the Title IX or the Section 504 Coordinator at 175 Mayfield Drive, Boydton, VA 23917 or by calling 434-738-6111.

For further information on notice of non-discrimination, visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the address and phone number of the office that serves you area, or call 1-800-421-3481.

# POLICY STATEMENTS

- MCPS is committed to maintaining a learning/working environment free from sexual harassment and harassment/discrimination based on race, color, national origin, sex, disability, or age;
- It is a **VIOLATION** of this policy for any student or school personnel to harass/discriminate a student on the basis of race, color, national origin, sex, disability, or age;

- It is a **VIOLATION** of this policy for any school personnel to tolerate discrimination, sexual harassment or harassment based on student's or employee's race, color, national origin, sex, disability, or age; by:
  - students,
  - school personnel or
  - third parties participating in, observing, or otherwise engaged in school sponsored activities;

# DEFINITION OF SCHOOL PERSONNEL

- School personnel includes the following people:
  - School Board Members;
  - School Employees;
  - School Agents;
  - Volunteers;
  - Contractors; or
  - Other persons subject to the supervision and control of the School Division

# DEFINITION OF SEXUAL HARASSMENT

- Sexual Harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

# DEFINITION OF SEXUAL HARASSMENT, CONTINUED

- I. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education; or
- II. submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
- III. that conduct or communication substantially or unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile or offensive employment or educational environment (i.e. the conduct is sufficiently serious to limit a student's or employee's ability to participate in or benefit from the educational program or work environment).

# EXAMPLES OF CONDUCT WHICH MAY CONSTITUTE SEXUAL HARASSMENT IF IT MEETS THE DEFINITION

- ◉ Unwelcome sexual physical contact;
- ◉ Unwelcome ongoing or repeated sexual flirtation or propositions, or remarks;
- ◉ Sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions;
- ◉ Graphic comments about an individual's body;
- ◉ Sexual jokes, notes, stories, drawings, gestures or pictures

# EXAMPLES CONTINUED

- ◉ Spreading sexual rumors;
- ◉ Touching an individual's body or clothes in a sexual way;
- ◉ Displaying sexual objects, pictures, cartoons, or posters;
- ◉ Displaying sexual objects, pictures, cartoons, or posters;
- ◉ Impeding or blocking movement in a sexually intimidating manner.

# DEFINITION OF HARASSMENT/ DISCRIMINATION

- Harassment/Discrimination based on race, color, national origin, age, religion, political affiliation, handicapping condition, or gender; consists of physical or verbal conduct relating to an individual's race, color, national origin, sex, disability, or age when the conduct:

# DEFINITION OF HARASSMENT / DISCRIMINATION, CONTINUED

- I. creates an intimidating, hostile or offensive working or educational environment; or
- II. substantially or unreasonably interferes with an individual's work or education; or
- III. otherwise is sufficiently serious to limit an individual's employment opportunities or to limit a student's ability to participate in or benefit from the educational program.

## EXAMPLES OF CONDUCT WHICH MAY CONSTITUTE HARASSMENT BASED ON RACE, COLOR, NATIONAL ORIGIN, SEX, DISABILITY, OR AGE IF IT MEETS THE DEFINITION

- ◉ Graffiti containing racially offensive language;
- ◉ Name calling, jokes, or rumors;
- ◉ Physical acts of aggression against a person or his property because of that person's race, color, national origin, sex, disability, or age;
- ◉ Hostile acts which are based on another's race, color, national origin, sex, disability, or age;
- ◉ Written or graphic material which is posted or circulated and which intimidates or threatens individuals based on their race, color, national origin, sex, disability, or age;

# REQUIRED ACTIONS

## ⦿ The School Division shall:

1. Promptly investigate all complaints, written or verbal, of sexual harassment and harassment/discrimination based on race, color, national origin, sex, disability, or age;
2. Promptly take appropriate action to stop any harassment/discrimination and;
3. Take appropriate action against any student or school personnel who violates this policy and take any other action reasonably calculated to end and prevent further harassment/discrimination of school personnel or students;

# RETALIATION

- Retaliation against students or school personnel who report harassment/discrimination or participate in any related proceedings is **PROHIBITED**.
- The School Division shall take appropriate action against students or school personnel who retaliate against any student or school personnel who reports alleged harassment/discrimination or participates in related proceedings.

# FALSE CHARGES

- Students or school personnel who knowingly make false charges of harassment/discrimination shall be subject to disciplinary action as well as any civil or criminal legal proceedings.

# RIGHT TO ALTERNATIVE COMPLAINT PROCEDURE

- Nothing in MCPS policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment/ discrimination including:
  - initiating civil action,
  - filing a complaint with outside agencies, or
  - seeking redress under state or federal law.

# PREVENTION AND NOTICE OF POLICY

- Training to prevent sexual harassment and harassment/discrimination based on race, color, national origin, sex, disability, or age should be included in employee and student orientations as well as employee in-service training.

⦿ This Policy shall be:

- Displayed in prominent areas of each division building in a location accessible to students, parents, and school personnel;
- Included in the student and employee handbooks; and
- Sent to parents of all students within 30 days of the start of school.

⦿ All students, and their parents/guardians, and employees shall be notified annually of the names and contact information of the compliance officers.

# SCENARIO #1

- A parent files a complaint that their son was discriminated against on the basis of sex because the school guidance counselor told him he would face an uphill battle and not earn enough money to support a family because he wanted to become a child care provider. However, it would be a viable job for a female.
- Is this discrimination? Why or Why not?

## SCENARIO #2

- A girl and a boy was suspended for drugs. The parents of the boy filed a discrimination complaint because he was expelled and the girl was sent to a substance abuse program.
- Is this discrimination? Why or Why not?

# COMPLAINT PROCEDURES

1. Formal Procedures
2. Informal Procedures

# OUTLINE OF FORMAL PROCEDURES

1. File Report
2. The Investigation
3. Action by the Superintendent
4. Appeal

# FORMAL PROCEDURE

## 1. File Report

- ❑ Any student or school personnel who believes he/she is a victim of harassment/discrimination should report the alleged harassment/discrimination, as soon as possible or within 15 days from occurrence to one of the following compliance officers:
  - ✓ His/Her Teacher or Immediate Supervisor; or
  - ✓ Guidance Counselor; or
  - ✓ Resource Officer (if appropriate for the school); or
  - ✓ Assistant Principal(s); or
  - ✓ Principal

- ❑ Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment/discrimination shall immediately report the alleged harassment/discrimination to one of the following compliance officers:
  - ✓ His/Her Immediate Supervisor; or
  - ✓ Assistant Principal(s); or
  - ✓ Principal

- The reporting party should use the form, Report of Sexual Harassment/Harassment Based on Race, National Origin, Disability, or Religion Form, (R 5-1.7) to make complaints of harassment; and form, Report of Harassment, Discrimination, or Abuse, (R 7-1.2), however, oral reports and other written reports will be accepted;
  - Any complaint that involves the compliance officers or principal shall be reported to the Superintendent
  
- The report should be filed with the Principal who shall then forward it immediately to the School Division's Compliance Officer;

## ❑ Confidentiality

- The Complaint, and Identity of the complainant and alleged harasser, will be disclosed ONLY to the extent necessary to fully investigate the complaint; and
  - Only when such a disclosure is required or permitted by law.
- ❑ A complainant who wishes to remain anonymous shall be advised that such confidentiality may limit the School Division's ability to fully respond to the complaint

## 2. Investigation

- ❑ Upon receipt of a report of alleged prohibited harassment/discrimination, the Division's Compliance Officer shall:
  - Immediately authorize or undertake an investigation;
  - Acknowledge receipt of the complaint by giving written notice to:
    - ✓ The complainant; and
    - ✓ The person accused of the harassment/discrimination

- Determine whether interim measures should be taken pending the outcome of the investigation. Such measures may include, but are not limited to:
  - Separating the alleged harasser and the complainant; and/or;
  - In cases of involving potential criminal conduct, determining whether law enforcement officials should be notified;

- ❑ The investigation may be conducted by school personnel or a third party designated by the School Division;
- ❑ All employees shall cooperate with any investigation of alleged harassment/discrimination conducted under this policy or by an appropriate state or federal agency;
- ❑ If the alleged harassment/discrimination may also constitute child abuse, then it must be reported to the Department of Social Services in accordance with Policy JHG

- The investigation shall be completed no later than **14 calendar** days after receipt of the report by the compliance officer;
  - If the compliance officer determines that more than 14 days will be required to investigate the complaint, the complainant and the accused shall be **notified of the reason** for the extended investigation and **of the date by which the investigation will be concluded**

# INVESTIGATION PROCEDURES

- The investigation may consist of:
  - Personal interviews with the complainant and the alleged harasser;
  - Personal interviews with witness or with persons who may have knowledge of the alleged harassment/ discrimination;
  - Inspection of any other documents or information deemed relevant to the investigator;
- The School Division shall take necessary steps to protect the complainant and others pending the completion of the investigation

- In determining whether the alleged conduct constitutes a violation of policy, the Division shall consider, at a minimum:
  1. The surrounding circumstances;
  2. The nature of the behavior;
  3. Past incidents or past or continuing patterns of behavior;
  4. The relationship between the parties;
  5. How often the conduct occurred;

6. The identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim);
  7. The location of the alleged harassment/discrimination;
  8. The ages of the parties, and
  9. The context in which the alleged incidents occurred
- Determining if a particular action or incident constitutes a violation of this policy is a case by case determination based on all the facts and circumstances revealed after a complete and thorough investigation

## SCENARIO #3

- A parent files a discrimination complaint because their daughter and other girls were excluded from a small exclusive math class.
- Is this discrimination? Why or Why not?

# SCENARIO #4

- A female student files a complaint that she was sexually harassed because a boy touched her breasts in drama class.
- Is this discrimination? Why or Why not?

# AFTER THE INVESTIGATION

- The compliance officer shall issue a written report to the superintendent upon completion of the investigation.
  - If the complaint involves the superintendent, then the report shall be sent to the School Board;
- The report shall include:
  - A determination of whether the allegations are substantiated;
  - A determination of whether policy was violated; and
  - Recommendations for corrective actions, if any.

### 3. Action by the Superintendent

- ❑ Within **5 calendar days** of receiving the compliance officer's report, the Superintendent or designee shall issue a decision regarding whether this policy was violated
- ❑ If the Superintendent or designee determines that prohibited harassment/ discrimination occurred, the Mecklenburg County School System shall:
  - ✓ Take prompt, appropriate action to address and remedy the violation, as well as
  - ✓ Prevent any recurrence

- ❑ Such action may include discipline up to and including expulsion or discharge;
- ❑ Whether or not the Superintendent or designee determines that prohibited harassment/discrimination occurred, he/she may determine that:
  - ✓ school-wide or division-wide training be conducted;  
or
  - ✓ That the complainant receive counseling

#### 4. Appeal

- If the Superintendent or designee determines that NO prohibited harassment/discrimination occurred, the employee or student who was allegedly subjected to harassment/discrimination may APPEAL this finding to the School Board within 5 calendar days of receiving the decision.
- Notice of Appeal must be filed with the Superintendent who shall then forward the record to the School Board.

- ❑ The School Board may ask for oral or written argument from the aggrieved party and the Superintendent and any other individual the School Board deems relevant.
- ❑ If the Superintendent or designee determines that prohibited harassment/discrimination occurred and discipline is imposed, the disciplined person may APPEAL the disciplinary sanction in the same manner as any other such sanction would be appealed.
- ❑ Employees may choose to pursue their complaint under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

# DUTIES OF THE COMPLIANCE OFFICER

- The Compliance officer shall:
  - ✓ Receive reports or complaints of harassment/discrimination;
  - ✓ Oversee the investigation of any alleged harassment/discrimination;
  - ✓ Assess the training needs of the school division in connection with this policy;
  - ✓ Arrange necessary training to achieve compliance with this policy;
  - ✓ Insure that any harassment/discrimination investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education opportunity, including the authority to protect the alleged victim and others during the investigation.

# INFORMAL PROCEDURES

- If the complainant and the person accused of harassment AGREE; the student's principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, or administrator;
- If Informal Procedures are agreed upon, they shall both be informed that they have the right to abandon the informal procedure at any time in favor of the initiation of the Formal Procedures process;

# REPORT FOR INFORMAL PROCEDURES

- The principal or designee shall notify the complainant and the person accused of harassment in writing when the complaint has been resolved;
- The written notice shall state whether prohibited harassment occurred.

## SCENARIO #5

- A parent files a complaint alleging disability harassment/discrimination because her daughter was called slow by several students in her math class.
- Is this discrimination? Why or Why not?

# SCENARIO #6

- A parent calls files a complaint that there are no doors in the stalls in the boy's bathroom, however there are doors on the stalls in the girls bathroom.
- Is this discrimination? Why or Why not?

# COMPLIANCE OFFICERS

## DISCRIMINATION/HARASSMENT/ABUSE

- ◉ The Compliance Officer is responsible for identifying, preventing, and remedying prohibited harassment/discrimination/abuse.
- ◉ Supervisor of Personnel
  - Mrs. Nan Alga
  - 175 Mayfield Drive, Boydton, VA 23917
  - 434.738.6111; 434.447.7631; (Phone #'s)
  - 434.738.6679 (Fax #)

# ALTERNATE COMPLIANCE OFFICER

- Complaints of harassment/discrimination/abuse may also be made to the Alternate Compliance Officer;
- Director of Finance
  - Dr. John Keeler
  - 175 Mayfield Drive, Boydton, VA 23917
  - 434.738.6111; 434.447.7631 (Phone #'s)
  - 434.738.6679 (Fax #)

# COMPLIANCE OFFICERS

## SEXUAL HARASSMENT/HARASSMENT DUE TO RELIGION, RACE, NATIONAL ORIGIN, OR DISABILITY

- The Compliance Officer is responsible for identifying, preventing, and remedying prohibited harassment.
- Director of Exceptional Programs
  - Ms. Christy Peffer
  - 175 Mayfield Drive, Boydton, VA 23917
  - 434.738.6111; 434.447.7631; (Phone #'s)
  - 434.738.0691 (Fax #)

# ALTERNATE COMPLIANCE OFFICER

- Complaints of sexual harassment and harassment due to religion, race, national origin, or disability may also be made to the Alternate Compliance Officer (this individual must be of the opposite gender);
- Director of Finance
  - Mrs. Tracey Rogers
  - 175 Mayfield Drive, Boydton, VA 23917
  - 434.738.6111; 434.447.7631 (Phone #'s)
  - 434.738.6679 (Fax #)